IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETTION NO. 3895 **OF 2004**

PETITIONER : ANIL KUMAR NETAM S/O SHRI BALDURAM NETAM AGED ABOUT 36 YEARS R/O WARD NO. 8, NAGAR PANCHAYAT BHANUPRATAPPUR, DISTRICT KANKER, (C.G.).

P.R. No. 3902/04
Presented by Shri Sanjeev Dixit
dated 14/11/04

V E R S U S

RESPONDENTS :

1. STATE OF CHHATTISGARH, THROUGH: THE PRINCIPAL SECRETARY, URBAN ADMINISTRATION AND LOCAL SELF DEPARTMENT, D.K.S. BHAWAN RAIPUR, (C.G.).

2. STATE ELECTION COMMISSION, THROUGH : THE SECRETARY, RAIPUR, (C.G.).

3. THE COLLECTOR, DISTRICT KANKER, (C.G.)

4. NAGAR PANCHAYAT BHANUPRATAPPUR, DISTRICT KANKER, (C.G.), THROUGH : THE CHIEF MUNICIPAL OFFICER.

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUE OF AN APPROPRIATE WRIT IN THE NATURE OF MANDAMUS/CERTIORARI ETC. OR DIRECTION/ORDER IN THE LIKE NATURE ETC.

(41)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP No. 3895/04 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	04.11.2004 Shri Rajesh Pandey, counsel for the petitioner. Shri N.K. Agrawal, Deputy Advocate General for the State with Shri Sanjay Kumar Agrawal, counsel for respondent No.4. The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India questioning the legality, propriety and correctness of notification dated 20.8.2004 (Annexure P-7) issued by the State Government whereby the post of Chairperson of certain Nagar Panchayats have been reserved for Scheduled Caste, Scheduled Tribe and O.B.C categories. The case of the petitioner is that he is Scheduled Tribe by caste and resident of Nagar Panchayat Bhanupratappur, which was upgraded as Nagar Panchayat from Gram Panchayat vide notification-dated 19.2.2003 (Annexure P-3). The further case of the petitioner is that Nagar Panchayat Bhanupratappur consists of 15 wards and it is dominantly inhabited by Scheduled Tribes, therefore, looking to tribe population, the post of Chairperson should have been reserved for Scheduled Tribe, but it has been reserved for O.B.C. Learned counsel for the petitioner argued that in view of the Rule 8 of M.P. Municipalities Act, 1961, which deals with the procedure for reservation for newly constituted Municipalities, Nagar Panchayat, Bhanupratappur ought to have been reserved for Scheduled Tribe.	

[पीछे देखिये

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 3895/07 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

On the other hand, learned Deputy Advocate General for the State alongwith Shri Sanjay Kumar Agrawal, Advocate on behalf of respondent No.4 submitted that total population of tribes in all 72 Nagar Pachayats comes to 14.17% and as 14% of 72 is 10, therefore, only 10 Nagar Panchayats out of 72 Nagar Panchayats, whose percentage of tribe population is highest in numbers, were to be reserved for Scheduled Tribes. Counsel further submits that percentage of the tribe population of Nagar Panchayats which have been reserved for Scheduled Tribes starts from 25.51% and last Nagar Panchayat's percentage is 20.73%, whereas percentage of tribe population of Nagar Panchayat, Bhanupratappur is only 8.68%, and its number is 41 out of total 72 Nagar Pachayats in descending order. Further argument of the counsel is that Rule 8 of M.P. Municipalities Act, 1961 is not applicable in the present case, as the reservation has been made in the year 2004, whereas, Gram Panchayat Bhanupratappur was upgraded as Nagar Panchayat in the year 2003, therefore, reservation has already been considered in the year 2004.

I have heard the learned counsel for the parties.

As per Rule 5 of M.P. Municipalities (Reservation of Office of Mayor and President) Rules, 1999 such number of offices shall be reserved for Scheduled Castes and Scheduled Tribes as shall bear the same proportion, as nearly as may be, as the population of each of these categories, within the limits of all the Municipal Corporations, all the Municipal Councils, and all Nagar Pachayats

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 3895/04 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -5-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

as the case may be in the State bears to the total population within such limits. Such offices shall be reserved in descending order in those Municipalities in which the percentage of population of Scheduled Castes and Scheduled Tribes, as the case may be, is higher in their total population.

In view of the above provisions, post of Chairperson of those Nagar Pachayats shall be reserved for Scheduled Tribe whose tribe population is highest in their total population. In the present case as per reservation order posts of Chairperson of Nagar Panchayats Berla, Lawan, Navagarh, Pandariya, Bhatgaon (Raipur), Bilha, Ratanpur, Bagbahara, Nayabaradwar, Adbhaar have been reserved for Scheduled Tribe, as their percentage of tribe population starts from 25.51% and last Nagar Pachayat's percentage is 20.75%, whereas the percentage of tribe population of Bhanupratappur Nagar Panchayat is 8.68%. Therefore, in view of the Rules of 1999 the petitioner's case has no merit, as the total tribe population of all 72 Nagar Panchayats comes to 14.17% and 14.17% of 72 comes to 10, therefore, only 10 posts of Chairperson of Nagar Panchayat, whose tribe population is highest in their total population, have been reserved for Scheduled Tribe, whereas the percentage of tribe population of Bhanupratappur Nagar Panchayat is 8.68% and it comes at Sr. No.41 in descending order.

In the result, I do not find any substance in the petition of the petitioner, same is liable to be dismissed.

Sd/-
L.C. Bhadoo
Judge

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